

MINUTES OF MEETING

GOVERNOR'S MINED LAND RECLAMATION ADVISORY COMMITTEE

A meeting of the Governor's Mined Land Reclamation Advisory Committee was held on December 19, 2007, at 10:00 a.m. at the Department of Mines, Minerals and Energy Office in Big Stone Gap.

Present

Barbara Altizer
Terrance Collier
Bill Fertall
Jerry Hamilton
John Paul Jones
Jackson McClanahan, Jr.
Vanessa Perry
Philip Shelton

Absent

Bob Brendlinger
Keith Horton
Tommy McAmis
Donna Stanley
Douglas Wells

Also Present

Butch Lambert
Les Vincent
Benny Wampler
Marilyn Gates

Chairman John Jones called the meeting to order and asked everyone to introduce themselves. He then turned the meeting over to the first speaker, Les Vincent.

OSM Stream Buffer Zone and Valley Fill Proposed Rule.....Les Vincent

Les began a lengthy discussion of the Office of Surface Mining (OSM) Stream Buffer Zone and Valley Fill proposed rule. Concurrent to the rule, OSM put out an Environmental Impact Statement (EIS). Les advised that it is one of the most controversial rules OSM has ever published. Thousands of comments were received. The comment period, which was extended, is now closed. Les noted that industry, the states and environmental groups, were not happy with the rule for various reasons. At the same time, OSM published another rule regarding the number of permit copies necessary to be turned in on Federal lands, which also received a lot of comments. From reading the postings on the web, it was obvious that some had not read the rules they were commenting on, as they were not what the rule is about.

The Stream Buffer Zone and Valley Fill proposed rule is the preferred alternative in the EIS that OSM published. The intent of the rule was good as it clarified that the buffer zone did not apply to areas that were being mined through or which were having excess spoil placed into the stream segment. It would only apply to areas that were below that or where a road or other activities were encroaching on a stream. But then the rule was expanded and instead of just streams, it included all wetlands, lakes – any body of water.

Benny Wampler stated that this rule, time wise, could not pass during the Bush administration and Les agreed.

Pinto Creek National Pollutant Discharge Elimination System Court Case.....Les Vincent

A discussion was held on the Pinto Creek National Pollutant Discharge Elimination System court case. This is a decision issued by the US Court of Appeals for the 9th Circuit Court. This issue is being picked up by the Sierra Club and other environmental groups. Some intend to file similar lawsuits in other districts. Butch Lambert stated that we are on the verge of getting a lawsuit from a group out of Charlottesville called Southern Environmental Law Center.

They are asking the same questions of DMME/DMLR as were posed in the Pinto Creek lawsuit. Les advised that this lawsuit was based on a mining operation proposing to “put in a discharge”. The judges ruled they couldn’t do that unless all the discharges in the watersheds (watersheds that have adopted the Total Maximum Daily Load – TMDL) have been revised to meet effluent standards applicable to bring the stream back to whatever use had been impaired or have had an implementation schedule developed to do so. This has resulted in a lot of comments from the Environmental Protection Agency (EPA) and the Department of Environmental Quality (DEQ) in regards to the TMDL review work being done by DMLR on permit applications. Les stated that this decision could have an adverse affect on the environment because we can’t get offsets for coal and trading done on AML/Forestry areas. Benny noted that this decision goes beyond coal as it states “any discharge” not just permitted discharges and that even homeowners would have to have a compliance schedule for discharges. Benny also stated that some of the decision might be good if handled appropriately, but not as written as it is impractical.

Les advised that this decision would be applied across the board and could not be partially imposed. Butch stated that the new group of people at the EPA have been receptive to the way we handle TMDL’s and offsets for coal.

Division of Mined Land Reclamation Funding - OSM/EPA.....Benny Wampler

Benny gave an update on DMLR funding. He noted that especially in the last seven (7) years, there has been level funding with no recognition of any inflationary cost increases for the state. DMLR has 10 (possibly 11) vacant positions, eight (8) of which will probably have to remain vacant until we solve the funding issue. OSM, by law, funds up to 50% of the Title V program. There was an initial commitment that “up to” would mean 50%, however as years have gone by OSM has not kept “up to” 50%. Benny advised he has been to Washington with IMCC Director, Greg Conrad, trying to get an additional six (6) million dollars as part of the state based program. That would fix all states not just VA. This may be in the bill sent to President Bush this week and we may know something by the end of the week. Benny noted that the 4% raise state employees received in November and gasoline prices have both impacted funding. He advised that the AML program is now off budget and we will get more money from the new grant we will apply for in April.

Other items Benny discussed were: (1) Reclamation through mitigation, (2) Highwall elimination, (3) Incentives for cleanup, (4) Gap Financing Projects, (5) Regionalization of water systems, (6) AML – Payback of funds.

John Jones noted that Alpha Natural Resources will donate to the Nature Conservancy toward various environmental projects. Butch advised that an outside workgroup will be meeting January 9th, 2008 in Abingdon about funding some of these projects.

New Directors for the OSM Appalachian Regional Coordinating Center and Knoxville Field Office.....Butch Lambert

Butch gave an update on new OSM management. Brent Walquist is the new OSM Director in Washington, DC. The Appalachian Regional Director is Tom Shupe and the new Field Office Director in Knoxville is Earl Bandy. Benny gave some background information about each of the new directors.

Jerry Hamilton led a discussion on negative press and ways to get positive press on reclamation.

2007-2008 Conflict of Interests Filing – Financial Disclosure Statement.....Les Vincent

As the last order of business, Les Vincent asked that anyone who had not completed the Conflict of Interest forms (Financial Disclosure Statement) to please submit them as soon as possible. The deadline is January 15, 2008.